

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Apr 09, 2025

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

In re: GIGA WATT INC.,
Debtor.

No. 2:24-CV-00334-SAB

JUN DAM,

Appellant,
v.

MARK D. WALDRON, Chapter 7 Panel
Trustee; POTOMAC LAW GROUP
PLLC,
Appellees.

ORDER OF DISMISSAL

Before the Court is Appellees' Motion to Dismiss Jun Dam's Appeal on Equitable Grounds, ECF No. 3. Appellant is pro se. Appellees are represented by Pamela Egan. The motion was heard without oral argument.

BACKGROUND

The Giga Watt Project was formed to build and run a large-scale cryptocurrency mining operation. As part of the project, Giga Watt sold so-called "WTT Tokens" that entitled a token purchaser to use electricity generated by the Giga Watt facility to mine and generate cryptocurrency. The sales proceeds from the WTT Tokens totaled more than \$22 million, which was held by Perkins Coie LLP ("Perkins") in an escrow account. After the initial sale of tokens was complete, Perkins provided refunds to some purchasers, paying them from the

1 escrow fund. Perkins subsequently transferred \$21.6 million to Giga Watt entities,
2 and by February 22, 2018, the escrow account was depleted.

3 Giga Watt filed for Chapter 11 bankruptcy on November 19, 2018, in the
4 Eastern District of Washington (“the Bankruptcy Case”). Appellee Mark D.
5 Waldron (“Trustee Waldron”) was appointed as the Chapter 11 Trustee on January
6 24, 2019. On November 30, 2020, Trustee Waldron commenced an adversary
7 proceeding (the “Adversary Proceeding”) against Perkins alleging that Perkins’s
8 disbursement of the escrow funds violated a fiduciary duty that resulted in Giga
9 Watt’s collapse. On December 15, 2020, the Bankruptcy Court entered an order
10 approving the employment of Appellee Potomac Law Group (“PLG”) as special
11 litigation counsel in the Adversary Proceeding. Pursuant to this employment, PLG
12 was entitled to a 30% contingency fee of any recoveries obtained up to \$10 million
13 and a 25% contingency fee of any recoveries obtained that were greater than \$10
14 million, subject to Bankruptcy Court approval.

15 On December 16, 2020, Appellant Jun Dam (“Dam”) filed a class action
16 lawsuit in this Court (the “Class Action Suit”). The class members consisted of
17 individuals who had purchased WTT Tokens, and the class was represented by two
18 law firms: Blood, Hurst & O’Reardon, LLP and the Western Washington Law
19 Group, PLLP. (“Class Counsel”).

20 PLG proceeded to work on the Adversary Proceeding for approximately
21 three and a half years without objection—over one year of which was spent
22 negotiating with Perkins and Class Counsel. They ultimately reached an agreement
23 to settle both the Adversary Proceeding and the Class Action Suit (the “Settlement
24 Agreement”), wherein Perkins agreed to pay \$3 million to the bankruptcy estate
25 and \$4.5 million to the class members.

26 On October 4, 2023, the Bankruptcy Court approved the Settlement
27 Agreement. On February 2, 2024, this Court entered a preliminary approval of the
28 Settlement Agreement. The class members were allowed to object or opt-out, but

1 none did, and this Court then entered final approval of the Settlement Agreement
2 on May 23, 2024.

3 The Settlement Agreement defines a “Released Claim” as “any and all
4 actions, claims, demands, rights, suits, and causes of action of whatever kind or
5 nature against the Released Parties” It further defines “Released Parties” as
6 the bankruptcy estate, Trustee Waldron, and “agents and attorneys” of the
7 bankruptcy estate. Finally, it defines a “Releasing Party” as “Plaintiff and each and
8 every Class Member.” Under the Settlement Agreement’s release clause, each
9 Releasing Party was deemed to have waived any Released Claim against any
10 Released Party.

11 On July 26, 2024, PLG filed its final fee application, seeking \$900,000 (*i.e.*,
12 30% of the \$3 million adversary proceeding settlement), plus \$1,648.15 in
13 expenses. However, on August 22, 2024, Dam filed an objection, asking the
14 Bankruptcy Court not to disburse any funds from the bankruptcy estate to PLG. On
15 September 17, 2024, the Bankruptcy Court granted PLG’s application over Dam’s
16 objection, noting that counsel for PLG indicated that she spent 2,536.8 hours
17 working on the Adversary Proceeding and that her typical rate is \$600. Thus, PLG
18 estimated its services were valued at \$1,522,080 and the Bankruptcy Court found
19 that the requested \$900,000 was reasonable. The fees were paid to PLG on
20 September 19, 2024.

21 On September 26, 2024, Dam filed his Notice of Appeal in the U.S. District
22 Court for the Eastern District of Washington in case No. 2:24-cv-00334-SAB,
23 contending that the award of fees were inappropriate due to “lack of standing and
24 other procedural issues.” On October 1, 2024, Appellees filed this Motion, asking
25 the Court to deny Dam’s appeal on equitable grounds.

26 MOTION STANDARD

27 When a district court reviews a bankruptcy court decision, it reviews legal
28 conclusions de novo, factual conclusions for clear error, and mixed questions of

1 fact and law de novo. *See Banks v. Gill Distribution Centers, Inc.*, 263 F.3d 862,
2 867 (9th Cir. 2001).

3 Under 11 U.S.C. § 330, a bankruptcy court may award reasonable
4 compensation to a trustee, or an attorney employed by the trustee. When
5 determining reasonable compensation, courts must consider all relevant factors,
6 including (1) the time spent on such services; (2) the rates charged for such
7 services; and (3) whether the services were necessary or beneficial to the
8 administration or completion of the case. 11 U.S.C. § 330(a)(3).

9 A bankruptcy appeal is “equitably moot” when, absent a stay of the case,
10 events occur that prevent the appellate court from being able to provide effective
11 relief. *In re S.S. Retail Stores Corp.*, 216 F.3d 882, 885 (9th Cir. 2000) However,
12 even if a bankruptcy appeal is not equitably moot, a district court may still dismiss
13 the appeal if it finds equity weighs in favor of dismissal. *Id.*

14 A class member who lacks adequate legal representation is not bound by a
15 class action judgment; however, a class member who is represented by counsel
16 during a class action settlement hearing is bound by that settlement agreement.
17 *Dosier v. Miami Valley Broad. Corp.*, 656 F.2d 1295, 1299 (9th Cir. 1981).

18 ANALYSIS

19 The main thrust of Dam’s argument is that the release clause of the
20 Settlement Agreement—that was approved by this Court—is void and
21 unenforceable. Putting his arguments aside, Dam was represented by legal counsel
22 during the Class Action Suit and cannot now launch a collateral attack on the
23 Settlement Agreement. *See Dosier*, 656 F.2d at 1299.

24 Even assuming Dam could collaterally attack the Settlement Agreement,
25 without PLG’s services there would be no Settlement Agreement for Dam to
26 dispute. PLG spent 2,536.8 hours working on the Adversary Proceeding over three
27 and a half years—over a year of which was spent negotiating the Settlement
28 Agreement with Perkins and Class Counsel. And despite being present at the

1 Settlement Agreement negotiations and receiving the opportunity to opt out of the
2 Settlement Agreement, Dam never objected to PLG's representation or opted out
3 of the Settlement Agreement. In light of these facts, equity weighs in favor of
4 dismissing the appeal and Appellee's Motion to Dismiss on Equitable Grounds is
5 **granted.**

6 Accordingly, **IT IS HEREBY ORDERED:**

7 1. Appellees' Motion to Dismiss Jun Dam's Appeal on Equitable
8 Grounds, **ECF No. 3**, is **GRANTED.**

9 **IT IS SO ORDERED.** The Clerk of Court is directed to enter this Order,
10 provide copies to pro se Appellant and appellee counsel, and **close** the file.

11 **DATED** this 9th day of April 2025.



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A handwritten signature in blue ink, reading "Stanley A. Bastian", is written over a horizontal line.

17 Stanley A. Bastian
18 Chief United States District Judge
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